

# COUNCIL OF STATE BAR SECTIONS

**Monday, August 21, 2006  
2:00 p.m. - 4:00 p.m.**

**State Bar of California Office  
180 Howard Street  
San Francisco, CA 94105**

## **AGENDA**

1. Officer Report
  - a. Report of June Meeting of the Task Force on Sections
    - i. Section Membership listing on Attorney Profile Web Pages
2. 2007 Section Dues
  - a. Deadline – October 8, 2006 (conclusion of the Annual Meeting)
  - b. 2007 Overhead Forecast
3. Legal Specialization
  - a. Criminal Law Section and Legal Specialization – Working Project
  - b. Trust & Estates project
4. Section Workroom – Update
5. Section Booth at the Annual Meeting
  - a. Join a Section Flyer
    - i. 2007 Law Student Membership – free or fee?
  - b. Volunteer to assist at the booth
6. Education
  - a. 2006 Annual Meeting – Update
  - b. 2007 SEI – Update
  - c. November 15 Deadline for submission of 2007 CLE Programs
  - d. Online CLE – Is your content current?
7. Issue Out for Public Comment: Proposed New Insurance Disclosure Rules (see attached)
8. 2006 Council Meeting Schedule – Please Mark your calendars
  - e. Thursday, October 5, 2006, 2:00 p.m. – 5:00 p.m. Annual Meeting in Monterey

## **PUBLIC COMMENT**

**SUBJECT:** Proposed New Insurance Disclosure Rules

**BACKGROUND:** In May 2005, State Bar President John Van de Kamp, in consultation with the California Supreme Court, appointed The State Bar of California Insurance Disclosure Task Force to study:

- 1) if there should be a requirement in California that attorneys disclose whether they maintain professional liability insurance;
- 2) if so, what the exact nature and scope of that requirement should be; and
- 3) what the best vehicle would be for creating and enforcing any such requirement.

**PROPOSAL:** In its June 6, 2006 Report and Recommendations, the Insurance Disclosure Task Force recommended that the Board Committee on Regulation, Admissions and Discipline Oversight, as part of an insurance disclosure package:

- 1) approve a request to release for public comment two proposed insurance disclosure rules, one requiring direct disclosure to the client if an attorney is not covered by professional liability insurance, and the other requiring disclosure to the State Bar, to be followed by the public's ability to ascertain if an attorney is not covered by professional liability insurance; and
- 2) approve a recommendation to maintain the Insurance Disclosure Task Force as a resource to assist with developing public educational material concerning professional liability insurance, to complement any insurance disclosure requirement.

The Board Committee on Regulation, Admissions and Discipline approved the request and the accompanying recommendation.

The proposed new Rule of Professional Conduct would require direct disclosure of the absence of insurance to a client. The proposed new Rule of Court would require attorneys to certify to the State Bar whether they are covered by insurance, and provide that the State Bar will make publicly available the identity of individual attorneys who inform the State Bar that they are not insured.

Failure to comply with the new Rule of Court in a timely fashion would result in non-disciplinary, administrative suspension. Supplying false information in response to the new Rule of Court would subject an attorney to appropriate disciplinary action. Violation of the new Rule of Professional Conduct would implicate all the remedies that otherwise apply to a violation of the Rules of Professional Conduct.

Attorneys who are employed as government lawyers or in-house counsel and do not represent clients outside that capacity would be exempt from the insurance disclosure requirements.

**FISCAL/PERSONNEL IMPACT:** The fiscal and personnel impact are unknown at this time. The mere adoption of the proposed Rule of Professional Conduct does not involve an unbudgeted fiscal or personnel impact. The cost associated with the new Rule of Court is largely dependent on the mechanism by which the required attorney reporting is accomplished.

If the State Bar is required to mail a form to each active member – likely to be separate and apart from the annual fee statement – and each active member is then required to fill out the form and mail it back to the State Bar, there would be additional postage costs and increased staff costs associated with receipt of the information and data entry.

If, on the other hand, attorneys are able to enter the information online through the State Bar's member profile, there would be some programming costs, but they would be relatively minor compared to the costs of manual processing. In either event, there will also be unknown staff costs that are required in order to perform routine compliance, monitoring, and auditing functions.

**NOTE:** Only written comments will be accepted.

**ATTACHMENTS:**

- [Insurance Disclosure Task Force - Report and Recommendations \(Board Committee Agenda Item\)](#)
- [Proposed New Insurance Disclosure Rules](#)

**SOURCE:** Board Committee on Regulation, Admissions and Discipline Oversight

**COMMENT DEADLINE:** September 15, 2006

**DIRECT COMMENTS TO:**

[Saul Bercovitch, Staff Attorney](#)

The State Bar of California  
180 Howard Street  
San Francisco, CA 94105  
415-538-2306  
415-538-2515 Fax